

1 **Chapter 63.**

2 **Aeronautics.**

3 Article 1.

4 Municipal Airports.

5 **§ 63-1. Definitions; singular and plural.**

6 (a) Definitions. – For the purpose of this Chapter the following words, terms, and
7 phrases shall have the meanings herein given, unless otherwise specifically defined, or unless
8 another intention clearly appears, or the context otherwise requires:

- 9 (1) "Aeronautics" means transportation by aircraft; the operation, construction,
10 repair, or maintenance of aircraft, aircraft power plants and accessories,
11 including the repair, packing, and maintenance of parachutes; the design,
12 establishment, construction, extension, operation, improvement, repair, or
13 maintenance of airports, restricted landing areas, or other air navigation
14 facilities, and air instruction.
- 15 (2) "Aeronautics instructor" means any individual engaged in giving instruction
16 or offering to give instruction in aeronautics, either in flying or ground
17 subjects, or both, for hire or reward, without advertising such occupation,
18 without calling his facilities an "air school" or anything equivalent thereto,
19 and without employing or using other instructors. It does not include any
20 instructor in any public school or university of this State, or any institution
21 of higher learning duly accredited and approved for carrying on collegiate
22 work, while engaged in his duties as such instructor.
- 23 (3) "Aircraft" means any contrivance now known, or hereafter invented, used or
24 designed for navigation of or flight in the air.
- 25 (4) "Air instruction" means the imparting of aeronautical information by any
26 aeronautics instructor or in or by any air school or flying club.
- 27 (5) "Airman" means any individual who engages, as the person in command, or
28 as pilot, mechanic, or member of the crew, in the navigation of aircraft while
29 underway and (excepting individuals employed outside the United States,
30 any individual employed by a manufacturer of aircraft, aircraft engines,
31 propellers, or appliances to perform duties as inspector or mechanic in
32 connection therewith, and any individual performing inspection or
33 mechanical duties in connection with aircraft owned or operated by him) any
34 individual who is directly in charge of the inspection, maintenance,
35 overhauling, or repair of aircraft engines, propellers, or appliances; and any
36 individual who serves in the capacity of aircraft dispatcher or air traffic
37 control tower operator.
- 38 (6) "Air navigation" means the operation or navigation of aircraft in the air
39 space over this State, or upon any airport or restricted landing area within
40 this State.
- 41 (7) "Air navigation facility" means any facility other than one owned or
42 controlled by the federal government, used in, available for use in, or
43 designed for use in aid of air navigation, including airports, restricted
44 landing areas, and any structures, mechanisms, lights, beacons, marks,
45 communicating systems, or other instrumentalities or devices used or useful
46 as an aid, or constituting an advantage or convenience to the safe taking off,
47 navigation, and landing of aircraft, or the safe and efficient operation or
48 maintenance of an airport or restricted landing area, and any combination of
49 any or all of such facilities.
- 50 (8) "Airport" means any area of land or water, except a restricted landing area,
51 which is designed for the landing and take off of aircraft, whether or not

1 facilities are provided for the shelter, servicing, or repair of aircraft, or for
2 receiving or discharging passengers or cargo, and all appurtenant areas used
3 or suitable for airport buildings or other airport facilities, and all appurtenant
4 rights-of-way, whether heretofore or hereafter established.

5 (9) "Airport hazard" means any structure, object of natural growth, or use of
6 land, which obstructs the air space required for the flight of aircraft in
7 landing or taking off at any airport or restricted landing area or is otherwise
8 hazardous to such landing or taking off.

9 (10) "Airport protection privileges" means easements through, or other interests
10 in, air space over land or water, interests in airport hazards outside the
11 boundaries of airports or restricted landing areas, and other protection
12 privileges, the acquisition or control of which is necessary to insure safe
13 approaches to the landing areas of airports and restricted landing areas and
14 the safe and efficient operation thereof.

15 (11) "Air school" means any person engaged in giving or offering to give
16 instruction in aeronautics, either in flying or ground subjects, or both, for or
17 without hire or reward, and advertising, representing, or holding himself out
18 as giving or offering to give such instruction. It does not include any public
19 school or university of this State, or any institution of higher learning duly
20 accredited and approved for carrying on collegiate work.

21 (12) "Civil aircraft" means any aircraft other than a public aircraft.

22 (13) "Flying club" means any person other than an individual which, neither for
23 profit nor reward, owns, leases, or uses one or more aircraft for the purpose
24 of instruction or pleasure, or both.

25 (14) "Municipality" means any county, city, or town of this State, and any other
26 political subdivision, public corporation, authority, or district in this State,
27 which is or may be authorized by law to acquire, establish, construct,
28 maintain, improve, and operate airports and other air navigation facilities.

29 (15) "Navigable air space" means air space above the minimum altitudes of flight
30 prescribed by the laws of this State, or by regulations of the Commission
31 consistent therewith.

32 (16) "Operation of aircraft" or "operation aircraft" means the use of aircraft for
33 the purpose of air navigation and includes the navigation or piloting of
34 aircraft. Any person who causes or authorizes the operation of aircraft,
35 whether with or without the right of legal control (in the capacity of owner,
36 lessee, or otherwise) of the aircraft, shall be deemed to be engaged in the
37 operation of aircraft within the meaning of the statutes of this State.

38 (17) "Person" means any individual, firm, partnership, corporation, company,
39 association, joint stock association, or body politic; and includes any trustee,
40 receiver, assignee, or other similar representative thereof.

41 (18) "Public aircraft" means an aircraft used exclusively in the service of any
42 government or of any political subdivision thereof, including the government
43 of any state, territory, or possession of the United States, or the District of
44 Columbia, but not including any government owned aircraft engaged in
45 carrying persons or property for commercial purposes.

46 (19) "Restricted area" means any area of land, water, or both, which is used or is
47 made available for the landing and take off of aircraft, the use of which shall,
48 except in case of emergency, be only as provided from time to time by the
49 Commission.

50 (20) "State" or "this State" means the State of North Carolina.

1 (21) "State airway" means a route in the navigable air space over and above the
2 lands or water of this State designated by the Commission as a route suitable
3 for air navigation.

4 (b) Singular and Plural. – The singular shall include the plural, and the plural the
5 singular. (1945, c. 490, s. 1; 1949, c. 865, s. 3; 1971, c. 936, s. 2.)
6

7 **§ 63-2. Cities and towns authorized to establish airports.**

8 The governing body of any city or town in this State is hereby authorized to acquire,
9 establish, construct, own, control, lease, equip, improve, maintain, operate, and regulate
10 airports or landing fields for the use of airplanes and other aircraft, either within or without the
11 limits of such cities and towns and may use for such purpose or purposes any property suitable
12 therefor that is now or may at any time hereafter be owned or controlled by such city or town.
13 (1929, c. 87, s. 2.)
14

15 **§ 63-3. Counties authorized to establish airports.**

16 The governing body of any county in this State is hereby authorized to acquire, establish,
17 construct, own, control, lease, equip, improve, maintain, operate, and regulate airports or
18 landing fields for the use of airplanes and other aircraft within or without the limits of such
19 counties, and may use for such purpose or purposes any property suitable therefor that is now
20 or may at any time hereafter be owned or controlled by such county. (1929, c. 87, s. 3.)
21

22 **§ 63-4. Joint airports established by cities, towns and counties.**

23 The governing bodies of any city, town and county in this State are hereby authorized to
24 jointly acquire, establish, construct, own, control, lease, equip, improve, maintain, operate, and
25 regulate airports or landing fields for the use of airplanes and other aircraft within or without
26 the limits of such cities, towns and counties, and may use for such purpose or purposes any
27 property suitable therefor that is now or may at any time hereafter be jointly owned or
28 controlled by such city, town and county. (1929, c. 87, s. 4.)
29

30 **§ 63-5. Airport declared public purpose; eminent domain.**

31 Any lands acquired, owned, controlled, or occupied by such cities, towns, and/or counties,
32 for the purposes enumerated in G.S. 63-2, 63-3 and 63-4, shall and are hereby declared to be
33 acquired, owned, controlled and occupied for a public purpose, and such cities, towns and/or
34 counties shall have the right to acquire property for such purpose or purposes under the power
35 of eminent domain as and for a public purpose. (1929, c. 87, s. 5.)
36

37 **§ 63-6. Acquisition of sites; appropriation of moneys.**

38 Private property needed by a city, town and/or county for an airport or landing field may be
39 acquired by gift or devise or shall be acquired by purchase if the city, town and/or county is or
40 are able to agree with the owners on the terms thereof, and otherwise by condemnation, in the
41 manner provided by Chapter 40A. The purchase price, or award for property acquired for an
42 airport or landing field may be paid for by appropriation of moneys available therefor, or
43 wholly or partly from the proceeds of the sale of bonds of the city, town and/or county, as the
44 governing body and/or bodies of such city, town and/or county shall determine. (1929, c. 87, s.
45 6; 1981, c. 919, s. 7.)
46

47 **§ 63-7. Airports already established declared public charge; regulations and fees for use
48 of.**

49 The governing body or bodies of a city, town and/or county which has or have established
50 an airport or landing field, and acquired, leased, or set apart real property for such purpose, may
51 construct, improve, equip, maintain, and operate the same. The expenses of such construction,

1 improvement, maintenance, and operation shall be a city, town and/or county charge as the case
2 may be. The governing body or bodies of a city, town and/or county may adopt regulations and
3 establish fees or charges for the use of such airport or landing field. (1929, c. 87, s. 7.)
4

5 **§ 63-8. Appropriations.**

6 The governing body or bodies of a city, town and/or county to which this Article is
7 applicable, having power to appropriate, individually or jointly, money therein, are hereby
8 authorized to annually appropriate and cause to be raised by taxation in such city, town and/or
9 county or to use from the net proceeds derived from the operation, by such city, town or
10 county, of any public utility a sum sufficient to carry out the provisions of this Article in such
11 proportion and upon such pro-rata basis as may be determined upon by a joint board to be
12 appointed by and from the governing body or bodies of the city, town and/or the county or
13 individually as the case may be. Provided, nothing herein shall be construed to permit the
14 governing bodies of any county, city or town to issue bonds under the provisions of this Article
15 without a vote of the people. (1929, c. 87, s. 8.)
16

17 **§ 63-8.1. Repealed by Session Laws 1973, c. 803, s. 3.**

18
19 **§ 63-9. Partial invalidity.**

20 If any part or parts of this Article shall be held to be unconstitutional, such
21 unconstitutionality shall not affect the validity of the remaining parts of this Article. The
22 General Assembly expressly declares that it would have passed the remaining parts of this
23 Article, if it had known that such part or parts thereof would be declared unconstitutional.
24 (1929, c. 87, s. 9.)
25

26 Article 2.

27 State Regulation.

28 **§ 63-10. Repealed by Session Laws 1971, c. 936, s. 1.**

29
30 **§ 63-11. Sovereignty in space.**

31 Sovereignty in space above the lands and waters of this State is declared to rest in the State,
32 except where granted to and assumed by the United States. (1929, c. 190, s. 2.)
33

34 **§ 63-12. Ownership of space.**

35 The ownership of the space above the lands and waters of this State is declared to be vested
36 in the several owners of the surface beneath, subject to the right of flight described in G.S.
37 63-13. (1929, c. 190, s. 3.)
38

39 **§ 63-13. Lawfulness of flight.**

40 Flight in aircraft over the lands and waters of this State is lawful, unless at such a low
41 altitude as to interfere with the then existing use to which the land or water, or the space over
42 the land or water, is put by the owner, or unless so conducted as to be injurious to the health
43 and happiness, or imminently dangerous to persons or property lawfully on the land or water
44 beneath. The landing of an aircraft on the lands or waters of another, without his consent, is
45 unlawful, except in the case of a forced landing. For damages caused by a forced landing,
46 however, the owner or lessee of the aircraft or the aeronaut shall be liable as provided in G.S.
47 63-14. (1929, c. 190, s. 4; 1947, c. 1001, s. 1.)
48

49 **§ 63-14. Repealed by Session Laws 1947, c. 1069, s. 3.**

50
51 **§ 63-15. Collision of aircraft.**

1 The liability of the owners of one aircraft to the owner of another aircraft, or to aeronauts or
2 passengers on either aircraft, for damages caused by collision on land or in the air shall be
3 determined by the rules of law applicable to torts on land. (1929, c. 190, s. 6.)
4

5 **§ 63-16. Jurisdiction over crimes and torts.**

6 All crimes, torts, and other wrongs committed by or against an airman or passenger while in
7 flight over this State shall be governed by the laws of this State; and the question whether
8 damage occasioned by or to an aircraft while in flight over this State constitutes a tort, crime or
9 other wrong by or against the owner of such aircraft shall be determined by the laws of this
10 State. (1929, c. 190, s. 7; 1971, c. 936, s. 3.)
11

12 **§ 63-17. Jurisdiction over contracts.**

13 All contractual and other legal relations entered into by airmen or passengers while in flight
14 over this State shall have the same effect as if entered into on the land or water beneath. (1929,
15 c. 190, s. 8; 1971, c. 936, s. 3.)
16

17 **§ 63-18. Dangerous flying a misdemeanor.**

18 Any airman or passenger who, while in flight over a thickly inhabited area or over a public
19 gathering within this State, shall engage in trick or acrobatic flying, or in any acrobatic feat, or
20 shall except while in landing or taking off, fly at such a low level as to disturb the public peace
21 or the rights of private persons in the enjoyment of their homes, or injure the health, or
22 endanger the persons or property on the surface beneath, or drop any object except loose water
23 or loose sand ballast, shall be guilty of a Class 1 misdemeanor. (1929, c. 190, s. 9; 1947, c.
24 1001, s. 2; 1971, c. 936, s. 3; 1993, c. 539, s. 493; 1994, Ex. Sess., c. 24, s. 14(c).)
25

26 **§ 63-19. Repealed by Session Laws 1943, c. 543.**

27
28 **§ 63-20. Qualifications of operator; federal license.**

29 The public safety requiring, and the advantages of uniform regulation making it desirable,
30 in the interest of aeronautical progress, that a person engaging within this State in operating
31 aircraft, in any form of aerial navigation for which a license to operate aircraft issued by the
32 United States government would then be required if such aerial navigation were interstate,
33 should have the qualifications necessary for obtaining and holding such a license, it shall be
34 unlawful for any person to engage in operating aircraft within the State, in any such form of
35 aerial navigation, unless he have such federal license. (1929, c. 190, s. 11.)
36

37 **§ 63-21. Possession and exhibition of license certificate.**

38 The certificate of the license, herein required, shall be kept in the personal possession of the
39 licensee when he is operating aircraft within this State and must be presented for inspection
40 upon the demand of any passenger, any peace officer of this State, or any official, manager or
41 person in charge of any airport or landing field in this State upon which he shall land. (1929, c.
42 190, s. 12.)
43

44 **§ 63-22. Aircraft; construction, design and airworthiness; federal registration.**

45 The public safety requiring, and the advantages of uniform regulation making it desirable,
46 in the interest of aeronautical progress, that aircraft to be operated within this State should
47 conform, with respect to design, construction and airworthiness, to standards then prescribed by
48 the United States government with respect to aerial navigation of aircraft subject to its
49 jurisdiction, it shall be unlawful for any person to operate an aircraft within this State unless it
50 is registered pursuant to the lawful rules and regulations of the United States government then

1 in force, if the circumstances of such aerial navigation are of a character that such registration
2 would be required in the case of interstate aerial navigation. (1929, c. 190, s. 13.)

3
4 **§ 63-23. Penalties.**

5 A person who violates any provision of G.S. 63-20, 63-21 or 63-22 of this Article shall be
6 guilty of a Class 2 misdemeanor; provided, however, that acts or omissions made unlawful by
7 G.S. 63-20, 63-21 or 63-22 of this Article shall not be deemed to include any act or omission
8 which violates the laws or lawful regulations of the United States. (1929, c. 190, s. 14; 1993, c.
9 539, s. 494; 1994, Ex. Sess., c. 24, s. 14(c).)

10
11 **§ 63-24. Jurisdiction of State over crimes and torts retained.**

12 Provided that this Article shall not be construed as a waiver of jurisdiction of the courts of
13 the State of North Carolina over any crime or tort committed within the State of North
14 Carolina, and provided, further, that the General Assembly of North Carolina may at any time
15 amend, regulate or control any of the powers which may be assumed by the United States
16 Department of Commerce under this Article. (1929, c. 190, s. 15.)

17
18 Article 3.

19 Stealing, Tampering with, or Operating Aircraft While Intoxicated.

20 **§ 63-25. Taking of aircraft made crime of larceny.**

21 Any person who, under circumstances not constituting larceny shall, without the consent of
22 the owner, take, use or operate or cause to be taken, used or operated, an airplane or other
23 aircraft or its equipment, for his own profit, purpose or pleasure, steals the same, is guilty of a
24 Class H felony. (1929, c. 90, s. 1; 1993, c. 539, s. 1278; 1994, Ex. Sess., c. 24, s. 14(c).)

25
26 **§ 63-26. Tampering with aircraft made crime.**

27 Any person who shall, without the consent of the owner, go upon or enter, tamper with or in
28 any way damage or injure any airplane or other aircraft, or any personal property under the
29 control of or being used by any public or private airport or aircraft landing facility shall be
30 guilty of a Class 1 misdemeanor, and the showing of willful or malicious intent shall not be
31 necessary to sustain a conviction hereunder. (1929, c. 90, s. 2; 1987, c. 818, s. 3; 1993, c. 539,
32 s. 495; 1994, Ex. Sess., c. 24, s. 14(c).)

33
34 **§ 63-26.1. Trespass upon airport property made a crime.**

35 (a) It shall be unlawful for any person to trespass upon airport property. For purposes
36 of this section "airport property" means property that is under the control of or is being used by
37 any public or private airport or aircraft landing facility.

38 (b) A person commits the offense of trespass upon airport property if, without
39 authorization, he enters or remains on airport property that is so enclosed or posted or secured
40 as to demonstrate clearly an intent to keep out intruders. Violation of this section is a Class 2
41 misdemeanor. (1987, c. 818, s. 4; 1993, c. 539, s. 496; 1994, Ex. Sess., c. 24, s. 14(c).)

42
43 **§ 63-27. Operation of aircraft while impaired.**

44 (a) Offense. – A person commits the offense of operation of an aircraft while impaired
45 if he operates an aircraft, whether on the ground or in the air or on water, within this State:

- 46 (1) While under the influence of an impairing substance; or
47 (2) After having consumed sufficient alcohol that he has, at any relevant time
48 after the operating of an aircraft, an alcohol concentration of 0.04 or more.

49 The relevant definitions contained in G.S. 20-4.01 shall apply to this section.

50 (b) Defense precluded. – The fact that a person charged with violating this section is or
51 has been legally entitled to use alcohol or a drug is not a defense to a charge under this section.

1 (c) Pleading. – In any prosecution for operating an aircraft while impaired, the pleading
2 is sufficient if it states the time and place of the alleged offense in the usual form and charges
3 that the defendant operated the aircraft within this State while subject to an impairing
4 substance.

5 (d) Chemical Analysis. – Any person who operates an airplane or other aircraft,
6 whether on the ground or in the air or on the water within the territorial limits of this State
7 gives consent to chemical analysis if he is charged with the offense of operating an aircraft
8 while impaired. The charging officer must designate the type of chemical analysis to be
9 administered, and it may be administered when he has reasonable grounds to believe that the
10 person charged has committed the specified crime. The chemical analysis shall be performed
11 pursuant to the procedures established under Chapter 20 of the General Statutes applying to
12 motor vehicle violations with the exception that if the person charged refuses to be tested, the
13 charging officer shall, in writing, notify the local office of the Federal Aviation Administration
14 of the individual's refusal. The results of any chemical tests administered pursuant to this
15 section will be admissible into evidence at trial on the offense charged and a written report of
16 the test results shall be made available to the local office of the Federal Aviation
17 Administration.

18 (e) Punishment. – A person violating this section shall be guilty of a Class 1
19 misdemeanor. Provided, however, for a second and all subsequent convictions of this section, a
20 person shall be guilty of a Class I felony. (1929, c. 90, s. 3; 1953, c. 675, s. 8; 1987, c. 818, s. 1;
21 1993, c. 539, ss. 497, 1279; 1994, Ex. Sess., c. 24, s. 14(c).)
22

23 **§ 63-28. Infliction of serious bodily injury by operation of an aircraft while impaired.**

24 (a) Offense. – A person commits the offense of infliction of serious bodily injury by
25 operation of an aircraft while impaired if, while in violation of G.S. 63-27, he does serious
26 bodily injury to another.

27 (b) Defense precluded. – The fact that a person charged with violating this section is or
28 has been legally entitled to use alcohol or a drug is not a defense to a charge under this section.

29 (c) Pleading. – In any prosecution for infliction of serious bodily injury by operation of
30 an aircraft while impaired, the pleading is sufficient if it states the time and place of the alleged
31 offense in the usual form and charges that the defendant did serious bodily injury to another
32 while operating an aircraft within this State while subject to an impairing substance.

33 (d) Punishment. – Violation of this section is a Class F felony. (1929, c. 90, s. 4; 1953,
34 c. 675, s. 9; 1987, c. 818, s. 2; 1993, c. 539, s. 1280; 1994, Ex. Sess., c. 24, s. 14(c).)
35

36 Article 4.

37 Model Airport Zoning Act.

38 **§ 63-29: Repealed by Session Laws 1971, c. 936, s. 1.**
39

40 **§ 63-30. Airport hazards not in public interest.**

41 It is hereby found and declared that an airport hazard endangers the lives and property of
42 users of the airport and of occupants of land in its vicinity, and also, if of the obstruction type,
43 in effect reduces the size of the area available for the landing, taking off and maneuvering of
44 aircraft, thus tending to destroy or impair the utility of the airport and the public investment
45 therein, and is therefore not in the interest of the public health, public safety, or general welfare.
46 (1941, c. 250, s. 2.)
47

48 **§ 63-31. Adoption of airport zoning regulations.**

49 (a) Every political subdivision may adopt, administer, and enforce, under the police
50 power and in the manner and upon the conditions hereinafter prescribed, airport zoning
51 regulations, which regulations shall divide the area surrounding any airport within the

1 jurisdiction of said political subdivision into zones, and, within such zones, specify the land
2 uses permitted, and regulate and restrict the height to which structures and trees may be erected
3 or allowed to grow. In adopting or revising any such zoning regulations, the political
4 subdivision shall consider, among other things, the character of the flying operations expected
5 to be conducted at the airport, the nature of the terrain, the height of existing structures and
6 trees above the level of the airport, the possibility of lowering or removing existing
7 obstructions, and the views of the agency of the federal government charged with the fostering
8 of civil aeronautics, as to the aerial approaches necessary to safe flying operations at the
9 airport.

10 (b) In the event that a political subdivision has adopted, or hereafter adopts, a general
11 zoning ordinance regulating, among other things, the height of buildings, any airport zoning
12 regulations adopted for the same area or portion thereof under this Article may be incorporated
13 in and made a part of such general zoning regulations, and be administered and enforced in
14 connection therewith, but such general zoning regulations shall not limit the effectiveness or
15 scope of the regulations adopted under this Article.

16 (c) Any two or more political subdivisions may agree, by ordinance duly adopted, to
17 create a joint board and delegate to said board the powers herein conferred to promulgate,
18 administer and enforce airport zoning regulations to protect the aerial approaches of any airport
19 located within the corporate limits of any one or more of said political subdivisions. Such joint
20 board shall have as members two representatives appointed by the chief executive officer of
21 each political subdivision participating in the creation of said board and a chairman elected by a
22 majority of the members so appointed.

23 (d) The jurisdiction of each political subdivision is hereby extended to the
24 promulgating, adopting, administering and enforcement of airport zoning regulations to protect
25 the approaches of any airport or landing field which is owned by said political subdivision,
26 although the area affected by the zoning regulations may be located outside the corporate limits
27 of said political subdivision. In case of conflict with any airport zoning or other regulations
28 promulgated by any political subdivision, the regulations adopted pursuant to this section shall
29 prevail.

30 (e) All airport zoning regulations adopted under this Article shall be reasonable, and
31 none shall require the removal, lowering, or other change or alteration of any structure or tree
32 not conforming to the regulations when adopted or amended, or otherwise interfere with the
33 continuance of any nonconforming use, except as provided in G.S. 63-32, subsection (a).

34 (f) A political subdivision may not adopt an airport zoning regulation in violation of
35 G.S. 63A-18. (1941, c. 250, s. 3; 1945, cc. 300, 635; 1991, c. 749, s. 3.)

36 37 **§ 63-32. Permits, new structures, etc., and variances.**

38 (a) Permits. – Where advisable to facilitate the enforcement of zoning regulations
39 adopted pursuant to this Article, a system may be established by any political subdivision for
40 the granting of permits to establish or construct new structures and other uses and to replace
41 existing structures and other uses or make substantial changes therein or substantial repairs
42 thereof. In any event, before any nonconforming structure or tree may be replaced, substantially
43 altered or repaired, rebuilt, allowed to grow higher, or replanted, a permit must be secured from
44 the administrative agency authorized to administer and enforce the regulations, authorizing
45 such replacement, change or repair. No such permit shall be granted that would allow the
46 structure or tree in question to be made higher or become a greater hazard to air navigation than
47 it was when the applicable regulation was adopted; and whenever the administrative agency
48 determines that a nonconforming structure or tree has been abandoned or more than eighty
49 percent (80%) torn down, destroyed, deteriorated, or decayed: (i) no permit shall be granted
50 that would allow said structure or tree to exceed the applicable height limit or otherwise
51 deviate from the zoning regulations; and (ii) whether application is made for a permit under this

1 paragraph or not, the said agency may by appropriate action compel the owner of the
2 nonconforming structure or tree, at his own expense, to lower, remove, reconstruct, or equip
3 such object as may be necessary to conform to the regulations or, if the owner of the
4 nonconforming structure or tree shall neglect or refuse to comply with such order for 10 days
5 after notice thereof, the said agency may proceed to have the object so lowered, removed,
6 reconstructed, or equipped. Except as indicated, all applications for permits for replacement,
7 change or repair of nonconforming uses shall be granted.

8 (b) Variances. – Any person desiring to erect any structures, or increase the height of
9 any structure, or permit the growth of any tree, or otherwise use his property, in violation of
10 airport zoning regulations adopted under this Article, may apply to the board of appeals, as
11 provided in G.S. 63-33, subsection (c), for a variance from the zoning regulations in question.
12 Such variances shall be allowed where a literal application or enforcement of the regulations
13 would result in practical difficulty or unnecessary hardship and the relief granted would not be
14 contrary to the public interest but do substantial justice and be in accordance with the spirit of
15 the regulations and this Article.

16 (c) Obstruction Marking and Lighting. – In granting any permit or variance under this
17 section, the administrative agency or board of appeals may, if it deems such action advisable to
18 effectuate the purposes of this Article and reasonable in the circumstances, so condition such
19 permit or variance as to require the owner of the structure or tree in question to permit the
20 political subdivision, at its own expense, to install, operate, and maintain suitable obstruction
21 markers and obstruction lights thereon. (1941, c. 250, s. 4.)
22

23 **§ 63-33. Procedure.**

24 (a) Adoption of Zoning Regulations. – No airport zoning regulations shall be adopted,
25 amended, or changed under this Article except by action of the legislative body of the political
26 subdivision in question, or the joint board provided for in G.S. 63-31, subsection (c), after a
27 public hearing in relation thereto, at which parties in interest and citizens shall have an
28 opportunity to be heard. At least 10 days' notice of the hearing shall be published in an official
29 paper, or a paper of general circulation, in the political subdivision or subdivisions in which the
30 airport is located.

31 (b) Administration of Zoning Regulations – Administrative Agency. – The legislative
32 body of any political subdivision adopting airport zoning regulations under this Article may
33 delegate the duty of administering and enforcing such regulations to any administrative agency
34 under its jurisdiction, or may create a new administrative agency to perform such duty, but such
35 administrative agency shall not be or include any member of the board of appeals. The duties of
36 such administrative agency shall include that of hearing and deciding all permits under G.S.
37 63-32, subsection (a), but such agency shall not have or exercise any of the powers delegated to
38 the board of appeals.

39 (c) Administration of Airport Zoning Regulations – Board of Appeals. – Airport zoning
40 regulations adopted under this Article shall provide for a board of appeals to have and exercise
41 the following powers:

- 42 (1) To hear and decide appeals from any order, requirement, decision, or
43 determination made by the administrative agency in the enforcement of this
44 Article or of any ordinance adopted pursuant thereto;
- 45 (2) To hear and decide special exceptions to the terms of the ordinance upon
46 which such board may be required to pass under such ordinance;
- 47 (3) To hear and decide specific variances under G.S. 63-32, subsection (b).

48 Where a zoning board of appeals or adjustment already exists, it may be appointed as the
49 board of appeals. Otherwise, the board of appeals shall consist of five members, each to be
50 appointed for a term of three years and to be removable for cause by the appointing authority
51 upon written charges and after public hearing.

1 The board shall adopt rules in accordance with the provisions of any ordinance adopted
2 under this Article. Meetings of the board shall be held at the call of the chairman and at such
3 other times as the board may determine. The chairman, or in his absence the acting chairman,
4 may administer oaths and compel the attendance of witnesses. All meetings of the board shall
5 be public. The board shall keep minutes of its proceedings, showing the vote of each member
6 upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records
7 of its examinations and other official actions, all of which shall immediately be filed in the
8 office of the board and shall be a public record.

9 Appeals to the board may be taken by any person aggrieved, or by any officer, department,
10 board, or bureau of the political subdivision affected, by any decision of the administrative
11 agency. An appeal must be taken within a reasonable time, as provided by the rules of the
12 board, by filing with the agency from which the appeal is taken and with the board, a notice of
13 appeal specifying the grounds thereof. The agency from which the appeal is taken shall
14 forthwith transmit to the board all the papers constituting the record upon which the action
15 appealed from was taken.

16 An appeal shall stay all proceedings in furtherance of the action appealed from, unless the
17 agency from which the appeal is taken certifies to the board, after the notice of appeal has been
18 filed with it, that by reason of the facts stated in the certificate a stay would, in its opinion,
19 cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise
20 than by a restraining order which may be granted by the board or by a court of record on
21 application on notice to the agency from which the appeal is taken and on due cause shown.

22 The board shall fix a reasonable time for the hearing of the appeal, give public notice and
23 due notice to the parties in interest, and decide the same within a reasonable time. Upon the
24 hearing any party may appear in person or by agent or by attorney.

25 The board may, in conformity with the provisions of this Article, reverse or affirm, wholly
26 or partly, or modify, the order, requirement, decision or determination appealed from and may
27 make such order, requirement, decision or determination as ought to be made, and to that end
28 shall have all the powers of the administrative agency from which the appeal is taken.

29 The concurring vote of a majority of the members of the board shall be sufficient to reverse
30 any order, requirement, decision, or determination of the administrative agency, or to decide in
31 favor of the applicant on any matter upon which it is required to pass under any such ordinance,
32 or to effect any variation in such ordinance. (1941, c. 250, s. 5; 1981, c. 891, s. 11.)
33

34 **§ 63-34. Judicial review.**

35 (a) Any person aggrieved by any decision of the board of appeals, or any taxpayer, or
36 any officer, department, board, or bureau of the political subdivision, may present to the
37 superior court a verified petition setting forth that the decision is illegal, in whole or in part, and
38 specifying the grounds of the illegality. Such petition shall be presented to the court within 30
39 days after the decision is filed in the office of the board. Such petition shall comply with the
40 provisions of G.S. 160A-393.

41 (b) The allowance of the writ shall not stay proceedings upon the decision appealed
42 from, but the court may, on application, on notice to the board and on due cause shown, grant a
43 restraining order.

44 (c) The board of appeals shall not be required to return the original papers acted upon
45 by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions
46 thereof as may be called for by the writ. The return shall concisely set forth such other facts as
47 may be pertinent and material to show the grounds of the decision appealed from and shall be
48 verified.

49 (d) Repealed by Session Laws 2009-421, s. 3, effective January 1, 2010.

1 (e) Costs shall not be allowed against the board of appeals unless it appears to the court
2 that it acted with gross negligence, in bad faith, or with malice, in making the decision appealed
3 from. (1941, c. 250, s. 6; 2009-421, s. 3.)
4

5 **§ 63-35. Enforcement and remedies.**

6 Each violation of this Article or of any regulations, order, or ruling promulgated or made
7 pursuant to this Article, shall constitute a Class 3 misdemeanor, and each day a violation
8 continues to exist shall constitute a separate offense. In addition, the political subdivision
9 within which the property is located may institute in any court of competent jurisdiction, an
10 action to prevent, restrain, correct or abate any violation of this Article, or of airport zoning
11 regulations adopted under this Article, or of any order or ruling made in connection with their
12 administration or enforcement, and the court shall adjudge to the plaintiff such relief, by way of
13 injunction (which may be mandatory) or otherwise, as may be proper under all the facts and
14 circumstances of the case, in order fully to effectuate the purposes of this Article and of the
15 regulations adopted and orders and rulings made pursuant thereto. (1941, c. 250, s. 7; 1993, c.
16 539, s. 498; 1994, Ex. Sess., c. 24, s. 14(c).)
17

18 **§ 63-36. Acquisition of air rights.**

19 In any case in which:

- 20 (1) It is desired to remove, lower, or otherwise terminate a nonconforming use;
21 or
22 (2) The approach protection necessary cannot, because of constitutional
23 limitations, be provided by airport zoning regulations under this Article; or
24 (3) It appears advisable that the necessary approach protection be provided by
25 acquisition of property rights rather than by airport zoning regulations,
26 the political subdivision within which the property or nonconforming use is located or the
27 political subdivision owning the airport or served by it may acquire, in the manner provided by
28 the law under which municipalities are authorized to acquire real property for public purposes,
29 such an air right, easement, or other estate or interest in the property or nonconforming use in
30 question as may be necessary to effectuate the purposes of this Article.

31 If any political subdivision, or if any board or administrative agency appointed or selected
32 by a political subdivision, shall adopt, administer or enforce any airport zoning regulations
33 which results in the taking of, or in any other injury or damage to any existing structure, such
34 political subdivision shall be liable therefor in damages to the owner or owners of any such
35 property and the liability of the political subdivision shall include any expense which the
36 owners of such property are required to incur in complying with any such zoning regulations.
37 (1941, c. 250, s. 8.)
38

39 **§ 63-37. Short title.**

40 This Article shall be known and may be cited as the "Model Airport Zoning Act." (1941, c.
41 250, s. 10.)
42

43 **§ 63-37.1. Airport obstructions illegal.**

44 Any person, other than the owner or operator of an airport, who intentionally obstructs the
45 lawful takeoff and landing operations and patterns of aircraft at an existing public or private
46 airport shall be guilty of a Class 1 misdemeanor. (1995, c. 507, s. 19.5(m).)
47

48 Article 5.

49 Aeronautics Commission; Federal Regulations.

50 **§§ 63-38 through 63-44: Repealed by Session Laws 1949, c. 865, s. 1.**

51

1 **§ 63-45. Enforcement of Article.**

2 It shall be the duty of every State, county and municipal officer charged with the
3 enforcement of State and municipal laws to enforce and assist in the enforcement of this
4 Article. (1945, c. 198, s. 8.)

5
6 **§ 63-46. Repealed by Session Laws 1949, c. 865, s. 2.**

7
8 **§ 63-47. Enforcement of regulations of Civil Aeronautics Administration.**

9 In the general public interest and safety, the safety of persons receiving instructions
10 concerning or operating, using or traveling in aircraft, and of persons and property on the
11 ground, and in the interest of aeronautical progress, the public officers of the State, counties
12 and cities shall enforce the rules and regulations of the Civil Aeronautics Administration.
13 (1945, c. 198, s. 10.)

14
15 Article 6.

16 Public Airports and Related Facilities.

17 **§ 63-48. Transferred to § 63-1 by Session Laws 1971, c. 936, s. 2.**

18
19 **§ 63-49. Municipalities may acquire airports.**

20 (a) Every municipality is hereby authorized, through its governing body, to acquire
21 property, real or personal, for the purpose of establishing, constructing, and enlarging airports
22 and other air navigation facilities and to acquire, establish, construct, enlarge, improve,
23 maintain, equip, operate, and regulate such airports and other air navigation facilities and
24 structures and other property incidental to their operation, either within and without the
25 territorial limits of such municipality and within or without this State; to make, prior to any
26 such acquisition, investigations, surveys, and plans; to construct, install, and maintain airport
27 facilities for the servicing of aircraft and for the comfort and accommodation of air travelers;
28 and to purchase and sell equipment and supplies as an incident to the operation of its airport
29 properties. It may not, however, acquire or take over any airport or other air navigation facility
30 owned or controlled by any other municipality of the State without the consent of such
31 municipality. It may use for airport purposes any available property that is now or may at any
32 time hereafter be owned or controlled by it. Such air navigation facilities as are established on
33 airports shall be supplementary to and coordinated in design and operation with those
34 established and operated by the federal government.

35 (b) All property needed by a municipality for an airport or restricted landing area, or for
36 the enlargement of either, or for other airport purposes, may be acquired by purchase, gift,
37 devise, lease or other means if such municipality is able to agree with the owners of said
38 property on the terms of such acquisition, and otherwise by condemnation in the manner
39 provided by the Chapter entitled Eminent Domain, full power to exercise the right of eminent
40 domain for such purposes being hereby granted every municipality both within and without its
41 territorial limits. If but one municipality is involved and the charter of such municipality
42 prescribes a method of acquiring property by condemnation, proceedings shall be had pursuant
43 to the provisions of such charter and may be followed as to property within or without its
44 territorial limits. The fact that the property needed has been acquired by any agency or
45 corporation authorized to institute condemnation proceedings under power of eminent domain
46 shall not prevent its acquisition by the municipality by the exercise of the right of eminent
47 domain herein conferred when such right is exercised on the approach zone or on the airport
48 site. For the purpose of making surveys and examinations relative to any condemnation
49 proceedings, it shall be lawful to enter upon any land, doing no unnecessary damage. Provided
50 that municipalities building airports after the ratification of this Article shall not acquire by

1 condemnation any property of any corporation engaged in the operation of a railroad or railroad
2 bridge in this State if such property is used in the business of such corporation.

3 (c) Where necessary, in order to provide unobstructed air space for the landing and
4 taking off of aircraft utilizing airports or restricted landing areas acquired or operated under the
5 provisions of this Article, every municipality is authorized to acquire, in the same manner as is
6 provided for the acquisition of property for airport purposes, easements through or other
7 interests in air space over land or water, interests in airport hazards, or airport hazards outside
8 the boundaries of the airports or restricted landing areas and such other airport protection
9 privileges as are necessary to insure safe approaches to the landing areas of said airports or
10 restricted landing areas and the safe and efficient operation thereof. It is also hereby authorized
11 to acquire, in the same manner, land for the removal of airport hazards and the right of
12 easement for a term of years or perpetually, to place or maintain suitable marks for the daytime
13 marking and suitable lights for the nighttime marking of airport hazards, including the right of
14 ingress or egress to or from such airport hazards for the purpose of maintaining and repairing
15 such lights and marks. This authority shall not be so construed as to limit any right, power or
16 authority to zone property adjacent to airports and restricted landing areas under the provisions
17 of any law of this State.

18 (d) It shall be unlawful for anyone to build, rebuild, create, or cause to be built, rebuilt,
19 or created any object, or plant, cause to be planted, or permit to grow higher any tree or trees or
20 other vegetation which shall encroach upon any airport protection privileges acquired pursuant
21 to the provisions of this section. Any such encroachment is declared to be a public nuisance and
22 may be abated in the manner prescribed by law for the abatement of public nuisances, or the
23 municipality in charge of the airport or restricted landing area for which airport protection
24 privileges have been acquired as in this section provided, may go upon the land of others and
25 remove any such encroachment without being liable for damages in so doing. (1945, c. 490, s.
26 2; c. 810; 1981, c. 919, s. 8.)

27
28 **§ 63-50. Airports a public purpose.**

29 The acquisition of any lands for the purpose of establishing airports or other air navigation
30 facilities; the acquisition of airport protection privileges; the acquisition, establishment,
31 construction, enlargement, improvement, maintenance, equipment and operation of airports and
32 other air navigation facilities, and the exercise of any other powers herein granted to
33 municipalities, are hereby declared to be public, governmental and municipal functions
34 exercised for a public purpose and matters of public necessity, and such lands and other
35 property, easements and privileges acquired and used by such municipalities in the manner and
36 for the purposes enumerated in this Article, shall and are hereby declared to be acquired and
37 used for public, governmental and municipal purposes and as a matter of public necessity.
38 (1945, c. 490, s. 3.)

39
40 **§ 63-51. Prior acquisition of airport property validated.**

41 Any acquisition of property within or without the limits of any municipality for airports and
42 other air navigation facilities or of airport protection privileges heretofore made by any such
43 municipality in any manner, together with the conveyance and acceptance thereof, is hereby
44 legalized and made valid and effective. (1945, c. 490, s. 4.)

45
46 **§§ 63-51.1 through 63-52. Repealed by Session Laws 1973, c. 695, s. 10.**

47
48 **§ 63-53. Specific powers of municipalities operating airports.**

49 In addition to the general powers in this Article conferred, and without limitation thereof, a
50 municipality which has established or may hereafter establish airports, restricted landing areas

1 or other air navigation facilities, or which has acquired or set apart or may hereafter acquire or
2 set apart real property for such purpose or purposes is hereby authorized:

- 3 (1) To vest authority for the construction, enlargement, improvement,
4 maintenance, equipment, operation and regulation thereof in an officer, a
5 board or body of such municipality by ordinance or resolution which shall
6 prescribe the powers and duties of such officer, board or body. The expense
7 of such construction, enlargement, improvement, maintenance, equipment,
8 operation and regulation shall be a responsibility of the municipality.
- 9 (2) To adopt and amend all needful rules, regulations and ordinances for the
10 management, government and use of any properties under its control
11 whether within or without the territorial limits of the municipality; to appoint
12 airport guards or police with full police powers; to fix by ordinance,
13 penalties for the violation of said ordinances and enforce said penalties in the
14 same manner in which penalties prescribed by other ordinances of the
15 municipality are enforced. It may also adopt ordinances designed to
16 safeguard the public upon or beyond the limits of private airports or landing
17 strips within such municipality or its police jurisdiction against the perils and
18 hazards of instrumentalities used in aerial navigation. Such ordinances shall
19 be published as provided by general law or the charter of the municipality
20 for the publication of similar ordinances. They must conform to and be
21 consistent with the laws of this State and shall be kept in conformity, as
22 nearly as may be, with the then current federal legislation governing
23 aeronautics and the regulations duly promulgated thereunder and rules and
24 standards issued from time to time pursuant thereto.
- 25 (3) To lease such airports or other air navigation facilities, or real property
26 acquired or set apart for airport purposes, to private parties, to any municipal
27 or State government or to the national government, or to any department of
28 either thereof, for operation; to lease to private parties, to any municipal or
29 State government or to the national government, or any department of either
30 thereof, for operation or use consistent with the purpose of this Article,
31 space, area, improvements, or equipment on such airports; to sell any part of
32 such airports, other air navigation facilities or real property to any municipal
33 government, or to the United States or to any department or instrumentality
34 thereof, for aeronautical purposes or purposes incidental thereto, and to
35 confer the privileges of concessions of supplying upon its airports goods,
36 commodities, things, services and facilities; provided that in each case in so
37 doing the public is not deprived of its rightful, equal, and uniform use
38 thereof.
- 39 (4) To sell or lease any property, real or personal, acquired for airport purposes
40 and belonging to the municipality, which, in the judgment of its governing
41 body, may not be required for aeronautic purposes in accordance with the
42 laws of this State or the provisions of the charter of the municipality
43 governing the sale or leasing of similar municipally owned property.
- 44 (5) To determine the charge or rental for the use of any properties under its
45 control and the charges for any services or accommodations and the terms
46 and conditions under which such properties may be used, provided that in all
47 cases the public is not deprived of its rightful, equal, and uniform use of such
48 property. Charges shall be reasonable and uniform for the same class of
49 service and established with due regard to the property and improvements
50 used and the expense of operation to the municipality. The municipality
51 shall have and may enforce liens as provided by law for liens and

1 enforcement thereof, for repairs to or improvement or storage or care of any
2 personal property, to enforce the payment of any such charges.

3 (6) To engage, on an airport, in commercial and industrial land development
4 projects which relate to, develop, or further airborne commerce and cargo
5 and passenger traffic, and, in connection with any project, to improve real
6 estate on an airport and lease that improved real estate to public or private
7 commercial and industrial enterprises, or contract with others to do so.

8 (7) To exercise all powers necessarily incidental to the exercise of the general
9 and special powers herein created. (1945, c. 490, s. 6; 1991, c. 501, s. 1.)

10
11 **§ 63-54. Federal aid.**

12 (a) A municipality is authorized to accept, receive, and receipt for federal moneys and
13 other moneys, either public or private, for the acquisition, construction, enlargement,
14 improvement, maintenance, equipment, or operation of airports and other air navigation
15 facilities and sites therefor, and to comply with the provisions of the laws of the United States
16 and any rules and regulations made thereunder for the expenditures of federal moneys upon
17 such airports and other air navigation facilities.

18 (b) The governing body of any municipality is authorized, if necessary, to comply with
19 any federal law or regulation of any agency thereof to designate the North Carolina
20 Aeronautics Commission as its agents to accept, receive, and receipt for federal moneys in its
21 behalf for airport purposes. Such moneys as are paid over by the United States government
22 shall be paid over to said municipality under such terms and conditions as may be imposed by
23 the United States government in making such grant.

24 (c) All contracts for the acquisition, construction, enlargement, improvement,
25 maintenance, equipment, or operation of airports or other air navigation facilities made by the
26 municipality shall be made pursuant to the laws of this State governing the making of like
27 contracts, provided, however, that where such acquisition, construction, improvement,
28 enlargement, maintenance, equipment or operation is financed wholly or partly with federal
29 moneys the municipality may let contracts in the manner prescribed by the federal authorities,
30 acting under the laws of the United States and any rules or regulations made thereunder
31 notwithstanding any other State law to the contrary. (1945, c. 490, s. 7.)

32
33 **§ 63-55. Airports on public waters and reclaimed land.**

34 (a) The powers herein granted to a municipality to establish and maintain airports shall
35 include the power to establish and maintain such airports in, over, and upon any public waters
36 of this State within the limits or jurisdiction of or bordering on the municipality, any submerged
37 land under such public water, and any artificial or reclaimed land which before the artificial
38 making or reclamation thereof constituted a portion of the submerged land under such public
39 waters, and as well the power to construct and maintain terminal buildings, landing floats,
40 causeways, roadways and bridges for approaches to or connecting with the airport, and landing
41 floats and breakwaters for the protection of any such airport.

42 (b) All the other powers herein granted municipalities with reference to airports on land
43 or granted to them with reference to such airports in, over, and upon public waters, submerged
44 land under public waters, and artificial or reclaimed land. (1945, c. 490, s. 8.)

45
46 **§ 63-56. Joint operation of airports.**

47 (a) All powers, rights and authority granted to any municipality in this Article may be
48 exercised and enjoyed by two or more municipalities either within or without the territorial
49 limits of either or any of said municipalities and within or without this State, or by any
50 municipality acting jointly with any other municipality therein either within or without this
51 State, provided the laws of such other state permit such joint action.

1 (b) Any two or more municipalities may enter into agreements with each other, duly
2 authorized by ordinance or resolution, as may be appropriate, for joint action pursuant to the
3 provisions of this section. Concurrent action by the governing bodies of the municipalities
4 involved shall constitute joint action.

5 (c) Each such agreement shall specify its terms; the proportionate interest which each
6 municipality shall have in the property, facilities and privileges involved, and the proportion of
7 preliminary costs, costs of acquisition, establishment, construction, enlargement, improvement
8 and equipment, and of expenses of maintenance, operation and regulation to be borne by each,
9 and make such other provisions as may be necessary to carry out the provisions of this section.
10 It shall provide for amendments thereof and for conditions and methods of termination; for the
11 disposition of all or any part of the property, facilities and privileges jointly owned if said
12 property, facilities and privileges, or any part thereof, shall cease to be used for the purposes
13 herein provided or if the agreement shall be terminated, and for the distribution of the proceeds
14 received upon any such disposition, and of any funds or other property jointly owned and
15 undisposed of, and the assumption or payment of any indebtedness arising from the joint
16 venture which remains unpaid, upon any such disposition or upon a termination of the
17 agreement.

18 (d) Municipalities acting jointly as herein authorized may create a board from the
19 inhabitants of such municipalities for the purpose of acquiring property for establishing,
20 constructing, enlarging, improving, maintaining, equipping, operating and regulating the
21 airports and other air navigation facilities and airport protection privileges to be jointly
22 acquired, controlled, and operated. Such board shall consist of members to be appointed by the
23 governing body of each municipality involved, the number to be appointed by each to be
24 provided for by the agreement for the joint venture. Each member shall serve for such time and
25 upon such terms and as to compensation, if any, as may be provided for in the agreement.

26 (e) Each such board shall organize, select officers for terms to be fixed by the
27 agreement, and adopt and from time to time amend rules of procedure.

28 (f) Such board may exercise, on behalf of the municipalities acting jointly by which it
29 is appointed, all the powers of each of such municipalities granted by this Article, except as
30 herein provided, subject, however, to such limitations as may be contained in the agreement
31 between such municipalities. Real property, airports, restricted landing areas, air protection
32 privileges, or personal property costing in excess of a sum to be fixed by the joint agreement,
33 may be acquired, and condemnation proceedings may be instituted, only by authority of the
34 governing bodies of each of the municipalities involved. The total amount of expenditures to be
35 made by the board for any purpose in any calendar year shall be determined by the
36 municipalities involved by the approval by each. No real property and no airport, other air
37 navigation facility, or air protection privilege, owned jointly, shall be disposed of by the board,
38 by sale, or otherwise, except by authority of the appointed governing bodies, but the board may
39 lease space, area or improvements and grant concessions on airports for aeronautical purposes
40 or purposes incidental thereto.

41 (g) Each municipality is authorized and empowered to enact such ordinances as are
42 provided for by this Article, and to fix by such ordinances penalties for the violation thereof,
43 which ordinances shall have the same force and effect within the municipality which enacted
44 them, and on any property controlled by it, either separately or jointly with another
45 municipality, or adjacent thereto, whether within or without the territorial limits of it, or either
46 or any of them, as ordinances of the municipality involved, and may be enforced in such
47 municipality in like manner as are its other ordinances.

48 (h) Condemnation proceedings may be instituted in the names of two or more
49 municipalities jointly, and the property acquired by such joint condemnation proceedings shall
50 be held by the municipalities as tenants in common, each municipality being entitled to a pro
51 rata interest in said property as the value of its contribution to the acquisition of said property

1 bears to the total cost of acquiring said property, and in the event one municipality desires to
2 acquire property for expansion of or addition to the facilities, and the other or others do not
3 elect to join in the acquisition of such property, such municipality may institute condemnation
4 proceedings in its name individually, and all property now owned or hereafter acquired by a
5 municipal corporation for additions to or expansions of aeronautical facilities operated jointly
6 shall be and remain the sole property of the municipal corporation acquiring same.

7 (i) For the purpose of providing funds for necessary expenditures in carrying out the
8 provisions of this section, a joint fund shall be created and maintained, into which each of the
9 municipalities involved shall deposit its proportionate share as provided by the joint agreement,
10 and into which shall be paid the revenues obtained from the ownership, control and operation
11 of the airports and other air navigation facilities jointly controlled.

12 (j) All disbursements from such fund shall be made by order of the board, subject,
13 however, to such limitations as shall be contained in the agreement between such
14 municipalities.

15 (k) Specific performance of the provisions of any joint agreement entered into as
16 provided for in this section may be enforced as against any party thereto by the other party or
17 parties thereto.

18 (l) In the event any property is now held or may hereafter be acquired by two or more
19 municipalities for aeronautical purposes, and such municipalities do not agree upon the terms
20 of an agreement, as heretofore provided, and shall not agree to create a board as heretofore
21 provided, then and in that event a board of not less than five nor more than seven members
22 shall be created from the inhabitants of such municipalities, each municipality being entitled to
23 appoint as nearly as possible the proportionate number of representatives on said board as the
24 value of its contribution shall bear to the entire amount of money or property so held by such
25 municipalities for aeronautical purposes. In determining the value of the contribution of any
26 municipality, the value of any funds or property used for the development of said property or
27 the building of facilities on said property shall be taken into consideration.

28 (m) The said board shall have all powers given by this Article to boards created by
29 agreements between municipalities, provided, however, that any funds appropriated by a
30 municipality and turned over to the board for aeronautical purposes shall only be used for these
31 purposes designated by the municipality furnishing such funds.

32 (n) The actions of such board shall be determined by a majority vote of the members
33 thereof, and a majority of the members shall constitute a quorum for any meeting of the board,
34 and such boards so created shall have full control of all revenues received by reason of the
35 airport or other aeronautical facilities, and shall have power to expend all sums so received for
36 such aeronautical purposes as the board deems proper, and pay over any surplus to
37 municipalities in proportion to their respective interests.

38 (o) In the event the aeronautical facilities or any part thereof shall cease to be used for
39 aeronautical purposes, such of the facilities as are jointly owned by two or more municipalities
40 shall be sold, and each municipality shall receive its pro rata proportion of the sums realized
41 from the sale of facilities jointly owned.

42 (p) In the event aeronautical facilities are now owned or hereafter acquired by two or
43 more municipalities, and are operated under a board as hereinabove provided, and one or more
44 of such municipalities deem it advisable to expand or enlarge the facilities or invest more
45 money in such facilities, all of the municipalities then having representation on the board shall
46 be entitled, if they so desire, to contribute their pro rata part of such additional investment and
47 maintain their pro rata representation on said board, provided, however, that if one or more of
48 the municipalities involved shall fail to contribute its or their proportionate part of such
49 additional investment, the representation of such municipality on such board shall be
50 readjusted, to the end that the representation of each municipality on said board shall represent
51 as nearly as possible its pro rata contribution to the entire investment.

1 Provided further that where one municipality at the time of the passage of this Article shall
2 have invested more than one half of the total investment in a jointly owned airport, then, and in
3 that event the minority owner or owners shall be allowed five years from the date of the
4 passage of this Article in which to pay over to the majority owner a sum sufficient to equalize
5 the amount of ownership of the present minority owner or owners with the total ownership of
6 the majority owner. Provided further that this Article shall not be construed to amend or impair
7 in any respect contracts or agreements in effect at the time of the adoption of this Article.

8 (q) In the case of an airport board or commission authorized by agreement between two
9 cities, as defined in G.S. 160A-1(2), pursuant to this section, one of which is located partially
10 but not wholly in the county in which the jointly owned airport is located, and where the board
11 or commission provided water and wastewater services off the airport premises before January
12 1, 1995, the board or commission shall have the authority to acquire, construct, establish,
13 enlarge, improve, maintain, own, operate and contract for the operation of water supply and
14 distribution systems and wastewater collection, treatment and disposal systems of all types, on
15 and off the airport premises. In no event, however, shall such a board or commission be held
16 liable for damages to those off the airport premises for failure to provide such water or
17 wastewater services. (1945, c. 490, s. 9; 1995 (Reg. Sess., 1996), c. 644, s. 1.)

18
19 **§ 63-57. Powers specifically granted to counties.**

20 (a) The purposes of this Article are specifically declared to be county purposes as well
21 as generally public, governmental and municipal.

22 (b) The powers herein granted to all municipalities are specifically declared to be
23 granted to counties in this State, any other statute to the contrary notwithstanding. (1945, c.
24 490, s. 10.)

25
26 **§ 63-58. Municipal jurisdiction exclusive.**

27 Every airport and other air navigation facility controlled and operated by any municipality,
28 or jointly controlled and operated pursuant to the provisions of this Article, shall, subject to
29 federal and State laws, rules, and regulations, be under the exclusive jurisdiction and control of
30 the municipality or municipalities controlling and operating it, and no other municipality in
31 which such airport or air navigation facility is located shall have any police jurisdiction of the
32 same. (1945, c. 490, s. 11.)

33
34 **§§ 63-59 through 63-64. Reserved for future codification purposes.**

35
36 **Article 7.**

37 **State and Federal Aid; Authority of Department of Transportation.**

38 **§ 63-65. Authority of Department of Transportation generally; "airport" defined.**

39 (a) The Department of Transportation is hereby authorized, subject to the limitations
40 and conditions of this Article, to provide State aid in form of loans and grants to cities,
41 counties, and public airport authorities of North Carolina for the purpose of planning,
42 acquiring, constructing, or improving municipal, county, and other publicly owned or
43 controlled airport facilities, and to authorize related programs of aviation safety, education,
44 promotions, and long-range planning.

45 (b) Repealed by Session Laws 1979, c. 148, s. 1. (1967, c. 1006, s. 1; 1975, c. 716, s. 3;
46 1977, 2nd Sess., c. 1219, s. 39; 1979, c. 148, ss. 1, 5.)

47
48 **§ 63-66. Administration of Article; powers of Department of Transportation.**

49 The Department of Transportation shall carry out the provisions of this Article. In
50 exercising such power, the Department shall:

- 1 (1) Promote the further development and improvement of air routes, airport
2 facilities, seaplane bases, heliports, protect their approaches and stimulate
3 the development of aviation, commerce and air facilities. In exercising this
4 power, the Department shall prepare and develop goals, objectives, standards
5 and policies for the most efficient and economical expenditure of State funds
6 as may be appropriated for the purposes of this Article.
- 7 (2) Publish and make available to aviation interests, the Federal Aviation
8 Administration, and the people of the State generally, current information
9 regarding such criteria, standards, and policies.
- 10 (3) Prepare and keep current a State airport plan and submit annual revisions of
11 that plan to the Federal Aviation Administration.
- 12 (4) Make a detailed and thorough study of all applications for State assistance
13 authorized herein and make specific recommendations regarding
14 applications to the Federal Aviation Administration for federal grants.
- 15 (5) Develop a plan of priorities and allocations of State funds to be revised
16 annually.
- 17 (6) Represent the State before all federal agencies and elsewhere where the
18 aviation interests of the State may be affected.
- 19 (7) Subject to the availability of funds for the purpose, promote aviation safety
20 throughout the State and conduct such promotional, educational and other
21 programs as may be necessary to keep the people of the State properly
22 informed with respect to aviation and to further aeronautics generally
23 throughout the State. (1967, c. 1006, s. 1; 1973, c. 507, s. 5; c. 1262, ss. 28,
24 86; c. 1443, s. 1; 1975, c. 716, s. 3; 1979, c. 148, ss. 2, 5; 2011-266, s.
25 1.21(c).)

26 § 63-67. Activities eligible for State aid.

27 Loans and grants of State funds may be made for the planning, acquisition, construction, or
28 improvement of any airport, seaplane base, or heliport owned or controlled, or which will be
29 owned or controlled by any city, county or public airport authority acting by itself or jointly
30 with any other city or county. An airport, seaplane base, or heliport development project or
31 activity eligible for State aid under this Article shall also be deemed to include projects such as
32 air navigation facilities, aviation easements, and the acquisition of land, lighting, marking,
33 security items, terminal improvements, and the elimination of aviation safety hazards, and the
34 preservation or enhancement of essential air service as defined by the Federal Aviation Act of
35 1958, as amended. (1967, c. 1006, s. 1; 1973, c. 1443, s. 2; 1977, 2nd Sess., c. 1219, s. 39.1;
36 1979, c. 148, s. 5; 1987 (Reg. Sess., 1988), c. 1086, s. 164.)

37 § 63-68. Limitations on State financial aid.

38 Grants and loans of funds authorized by this Article shall be subject to the following
39 conditions and limitations:

- 40 (1) Loans and grants may be for such projects, activities, or facilities as would
41 in general be eligible for approval by the Federal Aviation Administration or
42 its successor agency or agencies with the exception that the requirement that
43 the airport be publicly owned shall not be applicable. Further, airport
44 terminal and security areas, seaplane bases, and heliports are also eligible for
45 State financial aid.
- 46 (2) Loans and grants of State funds shall be limited to a maximum of fifty
47 percent (50%) of the nonfederal share of the total cost of any project for
48 which aid is requested, and shall be made only for the purpose of
49 supplementing such other funds, public or private, as may be available from
50
51

1 federal or local sources provided, however, using one hundred percent
2 (100%) State funding in its discretion the Department of Transportation may
3 purchase, install and maintain navigational aids necessary for the safe,
4 efficient use of airspace and may conduct other projects or programs to
5 improve the safety and planning of the air transportation system, including
6 but not limited to, marking serviceable runways and taxiways. Further, the
7 Department of Transportation may contract out the maintenance and
8 installation of state-owned navigational aids when necessary and may give
9 or transfer such aids to the Federal Aviation Administration.

10 (3) Loans and grants of State funds shall be made from General Assembly
11 appropriations specifically designated for aviation improvement, and from
12 no other source. The Department of Transportation may utilize the State
13 Aviation Grant Funds to cover the direct and indirect costs of administering
14 airport grant projects, other services authorized by this Article including
15 planning, and the costs of services provided by nonadministrative
16 Department of Transportation divisions or other State agencies in connection
17 with these projects.

18 (4) Notwithstanding the provisions of this section or G.S. 63-67, the Department
19 of Transportation may allow up to ten percent (10%) of State aviation grant
20 funds to be used for maintenance on General Aviation and Air Carrier
21 Airports having a Department of Transportation approved maintenance plan
22 on a seventy-five percent (75%) local – twenty-five percent (25%) State
23 basis.

24 (5) Notwithstanding the provisions of this section, the Department of
25 Transportation may allow loans and grants of State funds up to eighty
26 percent (80%) of the nonfederal share of the total cost of the development of
27 new or unpaved publicly owned airports identified in the North Carolina
28 Airport System Plan, provided that such funding shall be limited to land
29 acquisition, site preparation, basic runway, taxiway, and apron system
30 construction, together with associated lighting and navigational aids, and
31 construction of the primary airport access road. Electronic navigational aids,
32 terminal buildings, access taxiways, and other items eligible for State airport
33 aid at the rate of fifty percent (50%) of the nonfederal share of project cost
34 shall not be eligible for the foregoing eighty percent (80%) State funding,
35 even though constructed as part of the initial airport development.

36 (6) Notwithstanding the provisions of this section, the Department of
37 Transportation may allow loans and grants of State funds up to ninety
38 percent (90%) of the total cost of the development of new or unpaved
39 publicly owned rural airports identified in the North Carolina Airport System
40 Plan and receiving no federal funding. Such State funding shall be limited to
41 land acquisition, site preparation, basic runway, taxiway, and apron system
42 construction, together with associated lighting and navigational aids, and
43 construction of the primary airport access road.

44 The Department of Transportation shall develop rules and regulations to
45 define rural airports. (1967, c. 1006, s. 1; 1969, c. 293; 1973, c. 1262, s. 28;
46 c. 1443, s. 3; 1975, c. 716, s. 3; 1977, 2nd Sess., c. 1219, s. 39.2; 1979, c.
47 148, ss. 3, 5; c. 149; 1981, c. 1117, ss. 1, 2; 1983, c. 319; 1983 (Reg. Sess.,
48 1984), c. 1094; 1985, c. 782; 1989, c. 636; 1991, c. 430, s. 1.)
49

50 **§ 63-69. Sources of State funds.**

1 State financial assistance under this Article shall be limited to appropriations of funds made
2 for the purpose by the General Assembly to the Department of Transportation, or to private
3 funds which may become available to the Department for such purpose. (1967, c. 1006, s. 1;
4 1973, c. 1262, s. 86; 1975, c. 716, s. 3; 1979, c. 148, s. 5.)
5

6 **§ 63-70. Acceptance, receipt, accounting, and expenditure of State and federal funds.**

7 All North Carolina municipalities, counties and public airport authorities are hereby
8 authorized to accept, receive, receipt for, disburse and expend State funds, and other funds,
9 public and private, which may be made available to them to accomplish any purpose of this
10 Article. All federal funds accepted and expended by any municipality or county shall be
11 accepted, accounted for, and expended according to such terms and conditions as may be
12 prescribed by the United States and not inconsistent with State law. All State funds accepted by
13 any municipality, county or public airport authority shall be accepted, accounted for, and
14 expended according to such terms and conditions as may be prescribed by the Department of
15 Transportation. Unless otherwise prescribed by the federal or State agency from which funds
16 were made available, the chief financial officer of the municipality, county or public airport
17 authority shall deposit all funds received and keep the same in separate funds according to the
18 purpose for which they were received. The accounting of all such funds shall be subject to the
19 municipal and county fiscal control acts. (1967, c. 1006, s. 1; 1973, c. 1262, s. 86; 1975, c. 716,
20 s. 3; 1979, c. 148, s. 5.)
21

22 **§ 63-71. Receipt of federal grants.**

23 (a) The Department of Transportation is hereby designated the State agency to accept
24 grants for public airport development and improvements made by the United States pursuant to
25 federal law. The Department shall have authority to comply with federal-aid provisions, to
26 obtain and to disburse said grants in accordance with applicable federal laws and regulations,
27 and to enter into contracts with the federal government, municipalities, counties, or airport
28 authorities in connection with said grants. The Department shall also have the authority to enter
29 into contracts with the Federal Aviation Administration or its successor agency for aeronautics
30 related purposes, including joint acquisition and installation of aviation related equipment in
31 accordance with the procurement procedures of the Federal Aviation Administration where
32 such method of acquisition would result in a cost savings to the Department.

33 (b) The Department of Transportation shall have authority to act as an agent of any
34 public agency which, either individually or jointly with one or more other public agencies,
35 submits to the Secretary of Transportation of the United States an application for federal aid in
36 connection with airport development, improvement, or planning. (1969, c. 1109, ss. 1, 2; 1973,
37 c. 1262, s. 86; 1975, c. 716, s. 3; 1979, c. 148, ss. 4, 5; 1983 (Reg. Sess., 1984), c. 1093.)
38

39 **§ 63-72. Authority of Department of Transportation to operate airports and expend
40 funds therefor.**

41 The Department is authorized to operate state-owned or leased airports or any airport for
42 which the State has obtained a special use permit to operate. The Department may expend
43 funds appropriated for grants to airports for the purpose of operating, maintaining, and
44 improving state-owned or leased airports, or any airport for which the State has obtained a
45 special use permit to operate and maintain. (1969, c. 1109, s. 3; 1973, c. 1262, s. 86; 1975, c.
46 716, s. 3; 1979, c. 148, s. 5.)
47

48 **§ 63-73. Letting of contracts.**

49 All contracts that the Department of Transportation may let for construction, repair,
50 maintenance or those services listed in 49 U.S.C. App. § 2210(a)(16) in furtherance of this

1 Article shall be let in accordance with the provisions of G.S. 136-28.1. (1983 (Reg. Sess.,
2 1984), c. 1033, s. 1; 1991, c. 430, s. 2.)

3
4 **§§ 63-74 through 63-77. Reserved for future codification purposes.**

5
6 Article 8.

7 North Carolina Special Airport Districts Act.

8 **§ 63-78. Short title.**

9 This Article shall be known and may be cited as the "North Carolina Special Airport
10 Districts Act." (1979, c. 689, s. 1.)

11
12 **§ 63-79. Definitions.**

13 As used in this Article, the following words and terms shall have the following meanings,
14 unless the context shall indicate another or different meaning or intent:

- 15 (1) "Aeronautical facilities" means airports, runways, terminals, hangars and
16 other facilities related thereto;
- 17 (2) "District" means a special airport district created under the provisions of this
18 Article;
- 19 (3) "District board" or "board" means a special airport district board established
20 under the provisions of this Article as the governing body of a district;
- 21 (4) "Governing body" means the board, commission, council or other body, by
22 whatever name it may be known, of a unit of local government in which the
23 general legislative powers thereof are vested;
- 24 (5) "Unit" or "unit of local government" means counties, cities, towns and
25 incorporated villages. (1979, c. 689, s. 2.)

26
27 **§ 63-80. Procedure for creation of districts; concurrent resolutions; notice and public
28 hearing; submission of question to voters; publication of notice; actions to set
29 aside proceedings.**

30 (a) Any unit of local government in this State and any one or more other units of local
31 government in this State may, by concurrent resolutions adopted by the governing body of each
32 such unit, create special airport districts under the provisions of this Article which shall be
33 public bodies corporate and politic and political subdivisions of the State. The district shall
34 comprise the territory of the participating units. The district shall be designated "Special
35 Airport District of _____" and shall be of such duration as the
36 participating units shall determine.

37 (b) Prior to the adoption of any resolutions creating a special airport district, there shall
38 be held a joint public hearing convened by the governing bodies of each of the participating
39 units of government concerning the creation of the proposed special airport district. The
40 presiding officers of the governing body of the units proposing to create such district shall
41 name a time and place within the proposed district at which the public hearing shall be held.
42 The presiding officers shall give prior notice of such hearing at the courthouse of the county or
43 counties within which the district lies and also by publication at least once a week for two
44 successive weeks in a newspaper having general circulation in the proposed district, the first
45 publication to be at least 30 days prior to such hearing. In the event all matters pertaining to the
46 creation of such special airport district cannot be concluded at such hearing, such hearing may
47 be continued to a time and place within the proposed district determined by the governing body
48 of each of the respective units of local government.

49 (c) Following the joint public hearing but prior to the adoption by a unit of local
50 government of any resolution creating a special airport district, the governing body of such unit
51 may submit the question of the unit's participation in a special airport district to the qualified

1 voters of such unit. The form of the question as stated on the ballot shall be in substantially the
2 following words:

3 "Shall the governing body of _____ approve _____'s
4 participation in the proposed _____ special airport district?

5 YES

NO"

6 If a majority of the qualified voters of the unit who vote thereon approve such participation, the
7 governing body of such unit may adopt a resolution creating the particular special airport
8 district. The election shall be conducted and the results thereof certified, declared and published
9 in the same manner as bond elections within the unit.

10 (d) Following the adoption of the resolutions creating the district by the governing body
11 of each participating unit, the presiding officer of each such governing body shall cause to be
12 published a single time in a newspaper circulating within the unit a notice in substantially the
13 following form:

14 The governing body of _____ and the governing body of
15 _____ passed resolutions on _____, _____, and on
16 _____, _____, respectively, creating the Special Airport District of
17 _____. Notice of the creation of such special airport district is hereby given on the date
18 hereof. Any action or proceeding questioning the validity of the resolutions or the creation of
19 the special airport district must be commenced within 30 days after the publication of this
20 notice.

21 _____
22 Presiding Officer

23 (e) Any action or proceeding in any court to set aside the resolutions or the creation of a
24 special airport district, or to obtain any other relief upon the ground that such resolutions or any
25 proceeding or action taken with respect to the creation of such district is invalid, must be
26 commenced within 60 days after the publication of the foregoing notice. After the expiration of
27 such period of limitation, no right of action or defense founded upon the invalidity of the
28 resolutions or the creation of the special airport district shall be asserted nor shall the validity of
29 the resolutions or the creation of such airport district be open to question in any court upon any
30 ground whatever, except in an action or proceeding commenced within such period. (1979, c.
31 689, s. 3; 1999-456, s. 59.)

32
33 **§ 63-81. District board; composition, appointment, terms and oaths; organization;
34 meetings; quorum.**

35 (a) Appointment of Board for District. – The board of the special airport district shall
36 be composed of two representatives from each of the participating units of local government
37 appointed annually by the governing body of each of said units of local government,
38 respectively, from among their members at the first regular meeting thereof in January. Each
39 member of the district board must be a member of the governing body of the unit of local
40 government by which he was appointed. Membership on the district board may be held in
41 addition to the offices authorized by G.S. 128-1 or 128-1.1. Said representatives shall hold
42 office from their appointment until their successors are appointed and qualified, except that
43 when any member of the district board ceases for any reason to be a member of the governing
44 body of the unit of local government by which he was appointed, he shall simultaneously cease
45 to be a member of said district board. Upon the occurrence of any vacancy on said district
46 board, the vacancy shall be filled within 30 days after notice thereof by the governing body of
47 the participating unit of local government having a vacancy in its representation. Within 30
48 days after the expiration of the period set forth in G.S. 63-80 hereof, the governing body of
49 each participating unit of local government shall appoint its representatives to hold office until
50 successors shall be appointed in the manner hereinbefore provided. Each member of the district
51 board, before entering upon his duties, shall take and subscribe an oath or affirmation to

1 support the Constitution and laws of the United States and of this State and to discharge
2 faithfully the duties of his office; and a record of each such oath shall be filed in the minutes of
3 the respective participating units of local government.

4 (b) District Board Procedures. – The district board shall meet regularly at such places
5 and on such dates as are determined by the board. Special meetings may be called by the
6 chairman on his own initiative and shall be called by him upon request of two or more
7 members of the board. All members shall be notified in writing at least 24 hours in advance of
8 such meeting. A majority of the members of the district board shall constitute a quorum. No
9 vacancy in the membership of the district board shall impair the right of a quorum to exercise
10 all the rights and perform all the duties of the district board. No action, other than an action to
11 recess or adjourn, shall be taken except upon a majority vote of the entire authorized
12 membership of said district board. Each member, including the chairman, shall be entitled to
13 vote on any question.

14 (c) District Board Officers. – The district board shall elect annually in January from
15 among its members a chairman, vice-chairman, secretary and treasurer. (1979, c. 689, s. 4.)
16

17 **§ 63-82. Procedure for inclusion of additional units of local government; notice and**
18 **hearing; actions to set aside proceedings.**

19 (a) If, at any time subsequent to the creation of a special airport district, there shall be
20 filed with the district board a resolution of the governing body of a unit of local government
21 requesting inclusion in the district of such unit of local government, and if the district board
22 shall favor the inclusion in the district of such unit of local government, the district board shall
23 notify the governing body of each of the participating units of local government within which
24 the district lies and shall propose to such governing bodies an appropriate amendment of the
25 concurrent resolutions creating the special airport district.

26 (b) The procedures set forth in G.S. 63-79 regarding the creation of a special airport
27 district shall apply to the inclusion in such special airport district of additional units of local
28 government.

29 (c) If all of the participating units of local government agree to the amendment of the
30 concurrent resolutions creating the special airport district to include such unit of local
31 government in the special airport district, the presiding officer of the governing body of each of
32 such participating units of local government, including the unit proposed to be included, shall
33 cause to be published in the manner provided in G.S. 63-79, a notice of the inclusion of such
34 unit of local government.

35 (d) Any action or proceeding in any court to set aside such amendatory resolutions
36 providing for the inclusion of a unit of local government within a special airport district or to
37 obtain any other relief upon the ground that such amendatory resolutions or any proceeding or
38 action taken with respect to the inclusion of the unit of local government within the district is
39 invalid, must be commenced within 30 days after publication of the notice. After the expiration
40 of such period of limitation, no right of action or defense founded upon the invalidity of the
41 amendatory resolutions or the inclusion of the unit of local government in the district shall be
42 asserted, nor shall the validity of the amendatory resolutions or the inclusion of the unit of local
43 government in the district be open to question in any court upon any ground whatever, except
44 in an action or proceeding commenced within such period. Provided that no such action or
45 proceeding to set aside such amendatory resolutions shall impair or otherwise affect the
46 conclusivity of the concurrent resolutions as provided in G.S. 63-80.

47 (e) Immediately following the inclusion of any additional unit of local government
48 within an existing district, members representing such additional unit of local government shall
49 be appointed to the district board in the manner provided in G.S. 63-81 hereof.

50 (f) The annexation by a participating unit of local government of an area lying outside
51 the district shall not be construed as the inclusion within the district of an additional unit of

1 local government within the meaning of the provisions of this section; but any such area so
2 annexed shall become a part of the district and shall be subject to all debts and supplemental
3 tax obligations thereof. (1979, c. 689, s. 5.)
4

5 **§ 63-83. Powers of districts generally.**

6 Each district shall be deemed to be a public body and body politic and corporate exercising
7 public and essential governmental functions to aid counties, cities, towns, incorporated villages
8 and airport authorities in constructing and financing aeronautical facilities and enhancing the
9 security of airport revenue bonds issued by counties, cities, towns, incorporated villages and
10 airport authorities, and each district is hereby authorized and empowered:

- 11 (1) To adopt bylaws for the regulation of its affairs and the conduct of its
12 business not in conflict with this or other laws;
- 13 (2) To adopt an official seal and alter the same at pleasure;
- 14 (3) To maintain an office at such place or places in the district as it may
15 designate;
- 16 (4) To sue and be sued in its own name, plead and be impleaded;
- 17 (5) To acquire in the name of the district by gift, purchase or exercise of the
18 power of eminent domain any improved or unimproved lands or
19 rights-in-land and make a conveyance thereof to a county, city, town,
20 incorporated village or airport authority for use as or in connection with
21 aeronautical facilities;
- 22 (6) To enter into contracts with any person, firm or corporation, public or
23 private, or any airport authority or other public authority or governmental
24 entity, upon such terms as the district board may determine with respect to
25 aeronautical facilities owned or operated by counties, cities, towns,
26 incorporated villages or airport authorities;
- 27 (7) To lend to any airport authority heretofore or hereafter created by statute
28 such sum or sums of money and at such rate of interest and upon such other
29 terms as the district and the airport authority shall contract and agree upon,
30 for the purpose of establishing, enlarging, improving, or maintaining any
31 airport under the control of such airport authority;
- 32 (8) To issue bonds or other obligations of the district as hereinafter provided and
33 apply the proceeds thereof to the financing of aeronautical facilities owned
34 or operated by counties, cities, towns, incorporated villages or airport
35 authorities or to the retirement of bonds theretofore issued by such units for
36 such purposes or by the district and to refund, whether or not in advance of
37 maturity or the earliest redemption date, any such bonds or other obligations;
- 38 (9) To levy for the life of airport revenue bonds issued by counties, cities,
39 towns, incorporated villages or airport authorities an annual property tax for
40 operating supplements or debt service reserved supplements as hereinafter
41 provided;
- 42 (10) To cause taxes to be levied and collected upon all taxable property within
43 the district sufficient to meet the obligations of the district; and
- 44 (11) To do all acts and things necessary or convenient to carry out the powers
45 granted by this Article. (1979, c. 689, s. 6.)
46

47 **§ 63-84. Bonds and notes authorized.**

48 In addition to the powers hereinbefore granted, a district shall have power to issue bonds
49 and notes pursuant to the provisions of the Local Government Bond Act and the Local
50 Government Revenue Bond Act for the purpose of financing aeronautical facilities and to
51 refund such bonds and notes, whether or not in advance of their maturity or earliest redemption

1 date, and such bond or note issues may include bonds or notes, the proceeds of which are to be
2 applied to the retirement of outstanding bonds or notes of counties, cities, towns, incorporated
3 villages or airport authorities theretofore issued for the purpose of financing aeronautical
4 facilities. (1979, c. 689, s. 7.)
5

6 **§ 63-85. Taxes for supplementing airport revenue bond projects.**

7 A district shall have power from time to time to levy taxes or cause the levy thereof for
8 operating supplements and debt service reserve supplements with respect to aeronautical
9 facilities under and subject to the Local Government Revenue Bond Act. (1979, c. 689, s. 8.)
10

11 **§ 63-86. Determination of tax rate by district board; levy and collection of tax;
12 remittance and deposit of funds.**

13 After each assessment for taxes following the creation of the district, the board or boards of
14 commissioners of the county or counties within which the district is located shall file with the
15 district board the valuation of assessable property within the district. The district board shall
16 then determine the amount of funds to be raised by taxation for the ensuing year in excess of
17 available funds to provide for the payment of interest on and principal of all outstanding
18 general obligation bonds as the same shall become due and payable and to pay all obligations
19 incurred by the district in the performance of its lawful undertakings and functions.

20 The district board shall determine the number of cents per hundred dollars necessary to
21 raise said amount and certify such rate to the appropriate board or boards of commissioners of
22 the appropriate county or counties. The board or boards of commissioners of such county or
23 counties shall include the number of cents per hundred dollars certified by the district board in
24 its next annual levy against all taxable property within the district, which tax shall be collected
25 as other county taxes are collected, and every month the amount of tax so collected shall be
26 remitted to the district board and deposited by the district board in a separate account in a bank
27 in the State. Such levy may include an amount for reimbursing the particular county for the cost
28 to the county of levying and collecting any such taxes. The officer or officers having charge or
29 custody of the funds of the district shall require security for protection of deposits as provided
30 in the Local Government Budget and Fiscal Control Act. (1979, c. 689, s. 9.)
31

32 **§ 63-87. Bond elections.**

33 Elections for the purpose of authorizing the levy of taxes for the issuance of bonds shall be
34 called by the district board and shall be conducted and the results canvassed by the boards of
35 elections having jurisdiction within the participating units. Such results shall be certified to the
36 district board and such board shall certify and declare the result of the election and publish a
37 statement of the result once as provided in the Local Government Bond Act. (1979, c. 689, s.
38 10.)
39

40 **§ 63-88. Advances.**

41 Any participating unit of local government is hereby authorized to make advances, from
42 any moneys that may be available for such purpose, in connection with the creation of the
43 special airport district and to provide for the preliminary expenses of such district. Any such
44 advances may be repaid to such participating units of local government from the proceeds of
45 the bonds issued by such district or from other available funds of the district. (1979, c. 689, s.
46 11.)
47

48 **§ 63-89. Inconsistent laws declared inapplicable.**

49 All general, special or local laws, or parts thereof, inconsistent herewith, are hereby
50 declared to be inapplicable, unless otherwise specified in the provisions of this Article. (1979,
51 c. 689, s. 12.)

1
2 Article 9.

3 Changes in Special Use Airspaces.

4 **§ 63-90. Public purpose declared.**

5 It is the intent of the General Assembly that the legislative branch review and comment on
6 all applications and actions of the Federal Aviation Administration concerning the creation of
7 or changes in special use airspaces for aircraft operation over North Carolina. (1987, c. 494, s.
8 1.)
9

10 **§ 63-91. General Assembly review and approval.**

11 The Division of Aviation of the Department of Transportation shall bring before the
12 General Assembly or the Joint Legislative Commission on Governmental Operations all
13 applications to the Federal Aviation Administration and all proposed rule changes by the
14 Federal Aviation Administration for the creation of or changes in special use airspaces,
15 including military operation areas and restricted areas for aircraft operation over North Carolina
16 during the period for public comment. If the General Assembly is in session during that period,
17 information on the pending application or rule change shall be presented to the standing
18 Transportation Committees of the House of Representatives and the Senate. If the comment
19 period occurs when the General Assembly is not in session then the Division of Aviation of the
20 Department of Transportation shall bring the relevant information before the Joint Legislative
21 Commission on Governmental Operations. The General Assembly or the Joint Legislative
22 Commission on Governmental Operations will then review and comment on those applications.
23 (1987, c. 494, s. 1.)
24

25 **§ 63-92. Effect of General Assembly review.**

26 (a) If the General Assembly or the Joint Legislative Commission on Governmental
27 Operations determines that the proposed change is in the best interests of the citizens of this
28 State, then the Division of Aviation of the Department of Transportation shall notify the
29 Federal Aviation Administration of the General Assembly's official position on the pending
30 application or rule change when it submits the State's official position on the pending
31 application or rule change.

32 (b) If the General Assembly or the Joint Legislative Commission on Governmental
33 Operations determines that the proposed change is not in the best interests of the citizens of this
34 State, then the Division of Aviation of the Department of Transportation shall notify the
35 Federal Aviation Administration of the General Assembly's official position opposing the
36 pending application or rule change when it submits the State's official position on the pending
37 application or rule change. (1987, c. 494, s. 1.)